

REMARKS/ARGUMENTS

This Reply is being filed in response to the second, non-final Official Action of October 20, 2006. The Official Action rejects Claims 28-36 and 46-54 under 35 U.S.C. § 101 as being directed to non-statutory subject matter (noting that the Official Action lists Claims 1-4, 11-12, 15 and 16, but applies the rejection to Claims 28-36 and 46-54; and further noting that the present application does not currently include any of Claims 1-4, 11-12, 15 and 16, but rather Claims 28-66). The Official Action also continues to reject Claims 28-30, 32, 36-39, 41, 45-48, 50 and 54-66 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,599,490 to Cornell et al., in view of U.S. Patent No. 6,230,164 to Rekieta et al. And again, Applicants note with appreciation the indication that the remaining claims, namely Claims 31, 33-35, 40, 42-44, 49 and 51-53 are allowable.

In response to the Official Action, and in particular the § 101 rejection of 28-36 and 46-54, Applicants have amended independent Claims 46 and 63, to more clearly define the claimed invention. As explained below, however, Applicants respectfully submit that independent Claim 28, as well as the claims that depend therefrom, are directed to statutory subject matter; and accordingly, respectfully traverse the rejection of Claims 28-36 as being directed to non-statutory subject matter.

As to the prior art rejection of the claims, Applicants again respectfully submit that the claimed invention is patentably distinct from Cornell and Rekieta, taken individually or in combination, as also explained below. Thus, Applicants also respectfully traverse the rejections of various ones of the claims of the present application as being unpatentable over Cornell in view of Rekieta. In view of the amendments to the claims and the remarks presented herein, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application.¹

¹ As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Official Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such in the future.

I. Claims 28-36 and 46-54 are Directed to Patentable Subject Matter

As indicated above, the Official Action rejects Claims 28-36 and 46-54 as being directed to non-statutory subject matter. Independent Claims 28 and 46, and by respective dependency Claims 29-36 and 47-54, will now be separately addressed below.

A. Claims 28-36 are Directed to Patentable Subject Matter

Independent Claim 28 recites a method including providing first switch commands, generating a subset of the first switch commands, providing data used by a second system to generate second switch commands, and determining whether the data used by said second system corresponds to first switch commands included in said subset. In rejecting independent Claim 28 as being directed to non-statutory subject matter, the Official Action alleges that “the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category.” Official Action of October 20, 2006, page 3. Applicants respectfully disagree.

As defined by Merriam-Webster Online Dictionary, the suffix “-ing” may be defined as an “action or process <running> <sleeping> : instance of an action or process <a meeting>.” Merriam-Webster Online Dictionary, *Definition of -ing* (visited Feb. 6, 2007) <<http://www.m-w.com/cgi-bin/dictionary>> (emphasis added). And as independent Claim 28 recites a method including a number of terms including the suffix “-ing,” Applicants respectfully submit that those terms define actions of the recited method. Applicants therefore respectfully submit that, contrary to the allegations in the Official Action, independent Claim 28, and by dependency Claims 29-36, do in fact recite a method or process including a number of recited actions (providing, generating, providing and determining). And as such, Applicants respectfully submit that independent Claim 28, and by dependency Claims 29-36, does fall within one of the enumerated statutory categories of § 101.

Applicants also note that the Official Action supports its conclusion that independent Claim 28 is directed to non-statutory subject matter by asserting that the limitations of

independent Claim 28 are, at best, functional descriptive material *per se*. As explained in MPEP § 2106 IV.B.1., however, “‘functional descriptive material’ consists of data structures and computer programs which impart functionality when employed as a computer component.” Nowhere, however, does independent Claim 28 recite anything that could reasonably be considered a “data structure” or “computer program.” Independent Claim 28 does recite a method executed in a computer system, but nowhere does independent Claim 28 recite data structures or computer programs that impart functionality in that computer system.

For at least the foregoing reasons, Applicants respectfully submit that independent Claim 28, and by dependency Claims 29-36, are directed to statutory subject matter; and accordingly, respectfully submit that the rejection of Claims 28-36 as being directed to non-statutory subject matter is overcome.

B. Claims 46-54 are Directed to Patentable Subject Matter

Amended independent Claim 46 recites a system including a machine-readable storage medium having machine-executable instructions stored therein. As recited, the machine-executable instructions include instructions for performing a number of acts. It could be argued that independent Claim 46 recites a machine-readable storage medium having functional descriptive material stored therein. As noted in the Official Action, however, “[w]hen functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” Official Action of October 20, 2006, page 3. Applicants therefore respectfully submit that amended independent Claim 46, and by dependency Claims 47-54, are directed to statutory subject matter.

For at least the foregoing reasons, Applicants respectfully submit that the rejection of Claims 46-54 as being directed to non-statutory subject matter is overcome.

II. *Claims 28-30, 32, 36-39, 41, 45-48, 50 and 54-66 are Patentable over Cornell in view of Rekieta*

The Official Action continues to reject Claims 28-30, 32, 36-39, 41, 45-48, 50 and 54-66 as being unpatentable over Cornell in view of Rekieta. Initially, Applicants note that in response to the Official Action of March 9, 2006, Applicants explained that neither Cornell nor Rekieta, taken individually or in combination, teach or suggest at least one claimed feature of Claims 28-66. In response, however, the Official Action failed to address most of Applicants remarks. Accordingly, Applicants include herein a number of the same remarks presented in response to the Official Action of March 9, 2006; and in the limited instances in which the Official Action substantively addressed Applicants' remarks (other than merely repeating the substance of the rejection, or citing case law for arguments not proffered by Applicants), further include responses thereto. Should the Examiner maintain any of the current rejections of the claims in the next substantive Action, Applicants therefore respectfully request that the next Action note all of Applicants' arguments and include substantive answers thereto. *See* MPEP § 707.07(f) (explaining that "[w]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's arguments and answer the substance of it").

A. *Claims 28-54 are Patentable*

Independent Claim 28 sets forth a method executed in a computer system of verifying generated commands, and reads as follows:

28. A method executed in a computer system of verifying generated commands, the method comprising:
providing first switch commands generated by a first system;
generating a subset of said first switch commands generated by said first system;
providing data used by a second system to generate second switch commands; and
determining whether said data used by said second system corresponds to first switch commands included in said subset, wherein a correspondence between said data and said first switch commands is indicative of said second system being capable of generating at least one second switch command equivalent to a first switch command included in said subset.

As conceded by the first Official Action, Cornell does not teach or suggest determining whether data used by a second system corresponds to first switch commands included in a subset of such commands, where correspondence is indicative of the second system being capable of generating second switch command(s) equivalent to a first switch command included in the subset. Nonetheless, the Official Action alleges that Rekieta discloses this feature and that one skilled in the art would have been motivated to modify Cornell to include the feature to thereby teach the claimed invention. As motivation, the Official Action alleges that the modification “would allow the teachings of Cornell to improve the accuracy and the reliability of the method for analyzing the quality of telecommunications switch command tables, and to provide an efficient system for modifying the GTTs associated with various subsystems in the AIN,” citing column 17, lines 54-55 of Rekieta. Applicants respectfully disagree and submit that, like Cornell, Rekieta also does not teach or suggest determining whether data used by a second system corresponds to first switch commands included in a subset of such commands, where correspondence is indicative of the second system being capable of generating second switch command(s) equivalent to a first switch command included in the subset.

Rekieta discloses a communication system with rapid database synchronization. As disclosed, an Advanced Intelligent Network (AIN) service includes multiple Service Control Point (SCP) pairs for maintaining a subscriber database storing information about the accounts of a number of network subscribers. The SCP pairs are expandable to account for increases in the number of subscribers (and thus, the number of subscriber records), and can expand by migrating records between SCP pairs while maintaining redundancy between the pairs. A Centralized Global Title Table (CGTT) maintains Global Title Tables (GTTs) distributed between multiple subsystems in the AIN system. Mate SCPs within a pair are fully redundant (i.e., have an identical database), subject to short-term variations that are resolved by a synchronization process that occurs at high speed as the subscriber database is split into multiple files, each file having a separate synchronization process.

Rekieta therefore discloses providing variable pairs of SCPs for storing records of a subscriber database, where the SCPs of a pair are redundant and the number of pairs of SCPs increase to account for an increase in the number of records. However, Rekieta does not teach or

suggest any determination as to whether data used by any SCP of a pair of SCPs, any pair of SCPs, or any other element (used to generate second switch commands) corresponds to first switch commands included in a subset of first switch commands (generated by a SCP, pair of SCPs or any other element), as set forth by independent Claim 28. And more particularly, Rekieta does not teach or suggest any determination step that is indicative of the respective SCP or pair of SCPs being capable of generating second switch command(s) equivalent to a first switch command in the subset, as also set forth by independent Claim 28. Rekieta does disclose synchronizing customer records between mate SCPs of a pair of SCPs, as well as migrating customer records from one pair of SCPs to another, added pair of SCPs to account for increasing number of subscriber records. In neither instance, however, is any determination made as to whether data used by an SCP (i.e., customer record) to generate a second switch command corresponds to a first switch command included in a subset of first switch commands, particularly since the data synchronized between mate SCPs or migrated from one pair of SCPs to another are customer records, and not switch commands. Moreover, even if an SCP did perform a determination step, no SCP performs a determination indicative of the respective SCP being capable of generating second switch command(s) equivalent to a first switch command in the subset.

Applicants therefore respectfully submit that neither Cornell nor Rekieta, taken individually or in combination, teach or suggest at least the determining step of independent Claim 28. Thus, Applicants respectfully submit that independent Claim 28, and by dependency Claims 29-36, are patentably distinct from Cornell and Rekieta, taken individually or in combination. Applicants also respectfully submit that independent Claims 37 and 46 recite subject matter similar to that of independent Claim 28, including the aforementioned feature of determining correspondence between data used by a second system to generate second switch commands, and first switch commands of a subset of such commands. Accordingly, Applicants also respectfully submit that independent Claims 37 and 46, and by dependency Claims 38-45 and 47-54, are also patentably distinct from Cornell and Rekieta, taken individually or in combination, for at least the reasons given above with respect to independent Claim 28.

For at least the foregoing reasons, Applicants respectfully submit that the rejection of Claims 28-30, 32, 36-39, 41, 45-48, 50 and 54 under 35 U.S.C. § 103(a) as being unpatentable over Cornell in view of Rekieta is overcome.

B. Claims 55-66 are Patentable

Independent Claim 55 sets forth a method of verifying switch commands for a telecommunications network, and reads as follows:

55. A method of verifying switch commands for a telecommunications network, the method comprising:
obtaining from a first system first executable switch commands for a telecommunications network;
providing data used by a second system to generate second executable switch commands for the telecommunications network;
comparing the first executable switch commands with the data used by the second system; and,
based on a match between a first executable switch command and the data used by the second system, identifying the matched first executable switch command as being coded by data used by the second system to generate a second executable switch command for the telecommunications network.

In contrast to the method of independent Claim 55, and as explained below, neither Cornell nor Rekieta, taken individually or in combination, teach or suggest either of the aforementioned comparing or identifying steps.

1. Comparing First Executable Switch Commands

As indicated above, neither Cornell nor Rekieta, taken individually or in combination, teach or suggest comparing first executable switch commands with data used by a second system to generate second executable switch commands, as set forth by independent Claim 55. The Official Action cites Cornell, and particularly column 23, lines 59-65 of Cornell, as disclosing this feature of the claimed invention. In the aforementioned cited passage, as well as column 17, line 51 to column 18, line 10, Cornell discloses providing two or more telecommunication switches to a mobile telecommunication controller and associated cell sites to reduce the average length of communication links by allowing cell sites to connect to the closer of the provided switches. Even if one argued that two provided telecommunication switches correspond to first

and second systems, nowhere does Cornell teach or suggest comparing the switch commands of one of the switches with data used by the other switch to generate switch commands, similar to the comparing step of the claimed invention. And more particularly, given the Official Action interpreting primitive commands generated by a telecommunication switch controller as corresponding to first executable switch commands (taking this interpretation as given, although expressly not conceding the point), nowhere does Cornell teach or suggest comparing the primitive commands of one telecommunication switch with data used by the other telecommunication switch to generate primitive commands.

Applicants note that, in the response to arguments section, the Official Action notes that "Cornell discloses a switch controller sending a first primitive command, including identification data, and then the control complex generates a second command associating with incoming call." Official Action of October 20, 2006, page 10 (citing Cornell, column 4, lines 1-30). The Official Action then continues by asserting that the aforementioned passage meets the claimed step of comparing first executable switch commands with data used by a second system to generate second executable switch commands. Applicants respectfully submit, however, that even considering the above passage, Cornell still does not teach or suggest any comparison of the first primitive command with any other command or data from which any other command may be generated. As in the cited passage, Cornell may disclose a control complex receiving a first primitive command, and generating a second primitive command, but nowhere does Cornell teach or suggest that the control complex performs a comparison of the first primitive command with the second primitive command or any data from which the second primitive command may be generated.

2. *Identifying a Matched First Executable Switch Command*

As also indicated above, neither Cornell nor Rekieta, taken individually or in combination, teach or suggest identifying, based on a match between a first executable switch command and the data used by the second system, the matched first executable switch command as being coded by data used by the second system to generate a second executable switch command for the telecommunications network, as set forth by independent Claim 55. In fact, the

Official Action concedes that Cornell does not teach or suggest this feature of the claimed invention. Nonetheless, the Official Action alleges that Rekieta discloses this feature, and that it would have been obvious to one skilled in the art to modify Cornell to include the feature to thereby teach the claimed invention. Applicants respectfully disagree.

Again, Rekieta does disclose providing variable pairs of SCPs for storing records of a subscriber database, where the SCPs of a pair are redundant and the number of pairs of SCPs increase to account for an increase in the number of records. However, Rekieta does not teach or suggest any identification based on a match between data used by any SCP of a pair of SCPs, any pair of SCPs, or any other element (used to generate second switch commands) and a first executable switch command (generated by a SCP, pair of SCPs or any other element), similar to that set forth by independent Claim 55. Further, Rekieta does not teach or suggest any step of identifying any executable switch command as being coded by data used by a SCP or pair of SCPs to generate a second switch command, also similar to that set forth by independent Claim 55, again noting that the data synchronized between mate SCPs or migrated from one pair of SCPs to another are customer records, and not switch commands.

Applicants therefore respectfully submit that neither Cornell nor Rekieta, taken individually or in combination, teach or suggest at least the comparing or identifying steps of independent Claim 55. Thus, Applicants respectfully submit that independent Claim 55, and by dependency Claims 56-58, are patentably distinct from Cornell and Rekieta, taken individually or in combination. Applicants also respectfully submit that independent Claims 59 and 63 define subject matter similar to that of independent Claim 55, including the aforementioned comparing and identifying features. Accordingly, Applicants also respectfully submit that independent Claims 59 and 63, and by dependency Claims 60-62 and 64-66, are also patentably distinct from Cornell and Rekieta, taken individually or in combination, for at least the reasons given above with respect to independent Claim 55.

For at least the foregoing reasons, Applicants respectfully submit that the rejection of Claims 55-66 under 35 U.S.C. § 103(a) as being unpatentable over Cornell in view of Rekieta is overcome.

CONCLUSION

In view of the amendments to the claims and the remarks presented above, Applicants respectfully submit that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicants' undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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